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09/905,355	07/13/2001	Yuichiro Deguchi	SONI-6800	3808

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EXAMINER

STRANGE, AARON N

ART UNIT	PAPER NUMBER
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2153

DATE MAILED: 10/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/905,355

Applicant(s)

DEGUCHI, YUICHIRO

Examiner

Aaron Strange

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2002.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-13 and 16-51 is/are rejected.
7) ☒ Claim(s) 14 and 15 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 13 July 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to because they are handwritten and difficult to read. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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Claim Objections

2. Claims 1,12,31 and 51 are objected to because of the following informalities:
3. With regard to claim 1, there appears to be a typographical error "to the each one" in line 9. The Office recommends that the claim be amended to recite "to each of the one".
4. With regard to claims 12 and 31, there appears to be a typographical error "to the each one" in lines 3-4 of each claim. The Office recommends that the claim be amended to recite "to each of the one".
5. With regard to claim 51, there appears to be a typographical error "to the each one" in line 7. The Office recommends that the claim be amended to recite "to each of the one".
6. Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
8. Claims 7,21-43, and 45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
9. The term "substantially" in claims 7 and 21 is a relative term which renders the claim indefinite. The term "substantially" is not defined by the claim, the specification

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does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

10. With regard to claim 33, the dependency of the claim is unclear, since it currently depends from itself. For the purpose of applying prior art, claim 33 has been treated as depending from claim 32.

11. With regard to claim 45, the limitation "establishing a data transfer protocol" is unclear. It is unclear what Applicant is attempting to claim. It appears that Applicant may have intended to claim something similar to "establishing a connection using a data transfer protocol", and it has been interpreted as such for the purpose of applying prior art.

12. All claims not individually rejected are rejected by virtue of their dependency from the above claims.

Claim Rejections - 35 USC § 102

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

14. Claim 51 is rejected under 35 U.S.C. 102(e) as being anticipated by Tarboureich et al. (US 6,650,877).

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15. With regard to claim 51, Tarboureich discloses a system for identifying a time specific event, comprising: means for storing one or more time stamps (Col 5, Lines 48-49) and a device identification code (Col 7, Lines 32-34); means for generating a reference time information (Synchronization time) (Col 19, Lines 9-14); means for receiving the one or more time stamps and the device identification code (Physical parameters are uploaded) (Col 17, Lines 38-48), and the reference time information (Col 18, Lines 56-66); and means for determining a time information corresponding to the each one or more time stamps (derive activation times) (Col 19, Lines 9-14).

Claim Rejections - 35 USC § 103

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claims 1-13,16-32,35-37, and 40-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tarboureich et al. (US 6,650,877) in view of Doyle et al.

18. With regard to claim 1, Tarboureich et al. (Tarboureich, hereafter) discloses a system for identifying a time specific event, comprising: a data marker device configured to store one or more time stamps (Col 5, Lines 48-49) and a device identification code (Col 7, Lines 32-34); a server terminal configured to generate a reference time information (Synchronization time) (Col 19, Lines 9-14); a user terminal configured to receive the one or more time stamps and the device identification code from the data

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marker device (Col 7, Lines 28-34), and send the timestamps and the device identification code to the server terminal (Col 17, Lines 38-48); and determining a time information corresponding to the each one or more time stamps at the server (derive activation times) (Col 19, Lines 9-14). However, Tarboureich fails to disclose that the *user terminal* receives the reference time information from the server terminal and determines the time information corresponding to the time stamps. In the system disclosed by Tarboureich, *the server* receives the time stamps from the client and determines the time information corresponding to the time stamps itself.

Nonetheless, Doyle et al. (Doyle, hereafter) teach that the offloading of processing from a server as a means to reduce both the load on the server and congestion in the network near the server is well known. (Doyle, Page 6, Paragraph 1). Since each user of the system disclosed by Tarboureich has an individual sensing unit, the amount of calculation required for the server to determine the time information corresponding to each time stamp for every user would get very large as the number of users grew. With a sufficiently large number of users, the server may have become overloaded and unusable (Doyle, Page 5, Paragraph 1). This would have required very expensive server upgrades to keep up with demand (Doyle, Page 6, Paragraph 4) By performing this calculation for each user on their client, which typically has sufficient CPU cycles free to process the calculations, the load on the server would have been drastically reduced, improving the speed and reliability of the system for the users and reducing the cost for the service provider.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention as made to offload the calculation of the time information corresponding to the time stamps from the server to the client of each user since this will drastically reduce the load on the server when large numbers of users are accessing the system. This would have improved the speed and reliability of the system for the users and reduced the server cost for the service provider.

19. With regard to claim 2, Tarboureich further discloses that each of the one or more time stamps stored in the data marker device is generated responsive to a user input operation of the data marker device (User activates device)(Col 5, Lines 44-49).

20. With regard to claim 3, Tarboureich further discloses that the data marker device includes a clock (Fig 2, 16), and each of the one or more time stamps corresponds to a respective signal from the dock (device records time of activation)(Col 5, Lines 44-49).

21. With regard to claim 4, Tarboureich further discloses that the clock is configured to increment in a one-second interval (Clock resolution is 1 second)(Col 18, Lines 29-31).

22. With regard to claim 5, Tarboureich further discloses that the device identification code includes one of a predetermined length numeric sequence, a predetermined length letter sequence, and a predetermined length combination of numeric and letter sequence (Unique identification or serial number) (Col 7, Lines 32-34).

23. With regard to claim 6, Tarboureich further discloses that the data marker device includes an electronic music marker (marks time of radio songs) (Col 5, Lines 44-49).

24. With regard to claim 7, while the system disclosed by Tarboureich shows substantial features of the claimed invention (discussed above), including that the reference time information includes a time information corresponding substantially to the initial connection between the data marker device and the user terminal (Synchronization time)(Col 18, Lines 15-18 and Col 18, Line 56 to Col 19, Line 14), it fails to specifically disclose that this is a GMT time.

However, GMT is the well-known worldwide standard for describing a time and date. GMT is the same everywhere in the world, and provides a simple way to represent the time without requiring conversion between time zones. It would have been advantageous to use GMT to represent the time since it would allow the device to work in any time zone without requiring conversion of the time.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use GMT to represent the time in the system since it allows the device to function across time zones without requiring any conversion.

25. With regard to claim 8, Tarboureich further discloses that the user terminal is configured to transmit a request signal (log-in) to the server terminal when the data marker device establishes connection to the user terminal (Communication with server is done via client computer) (Col 7, Lines 20-21).

26. With regard to claim 9, as discussed regarding claim 1, it would have been advantageous to generate and transmit the reference time information to the user terminal in response to a request signal for the reference time received from the user

terminal, since calculating the time information corresponding to the timestamps would have greatly reduced the load on the server.

27. With regard to claim 10, Tarboureich further discloses that the connection between the data marker device and the user terminal includes one of a USB connection, a parallel connection, a serial connection, an IrDA connection and a Bluetooth connection (Col 7, Lines 41-48).

28. With regard to claim 11, the system disclosed by Tarboureich in view of Doyle further discloses that time information determined by the user terminal corresponding to the each one or more time stamps is based on the reference time information (Time is calculated based on synchronization time and timestamps)(Tarboureich, Col 19, Lines 9-14).

29. With regard to claim 12, Tarboureich further discloses that the user terminal is further configured to transmit the one or more time stamps, the device identification code the reference time information and the time information corresponding to the each one or more time stamps to the server terminal (Physical parameters are uploaded) (Col 17, Lines 38-48).

30. With regard to claim 13, Tarboureich further discloses that the user terminal is further configured to receive a receipt acknowledgement signal from the server terminal upon termination of transmission of the one or more time stamps, the device identification code, the reference time information and the time information corresponding to the each one or more time stamps to the server terminal (Feedback is received from server) (Col 17, Lines 43-47).

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31. With regard to claim 16, Tarboureich further discloses that the user terminal includes one of a personal computer, an Internet access enabled personal digital assistant, a Wireless Application Protocol enabled mobile telephone, and an I-mode enabled mobile telephone (client computers) (Col 7, Lines 20-21).

32. With regard to claim 17, Tarboureich further discloses a data network, the server terminal and the user terminal coupled to the data network (Col 6, Line 64 to Col 7, Line 10).

33. With regard to claim 18, Tarboureich further discloses that the data network includes one of a Local Area Network (LAN), a Wide Area Network (WAN), and an Internet connection (Col 6, Line 64 to Col 7, Line 10).

34. With regard to claim 19, Tarboureich further discloses that the server terminal and the user terminal are coupled to the data network using one of a TCP/IP protocol and a wireless application protocol (The Internet uses TCP/IP)(Col 6, Line 64 to Col 7, Line 10).

35. With regard to claim 20, Tarboureich further discloses that the user terminal includes an output unit, the user terminal further configured to launch an Internet browser for display in the output unit (Col 7, Lines 20-24).

36. With regard to claim 21, Tarboureich discloses a system for identifying a time specific event, comprising: a data marker device configured to store one or more time stamps (Col 5, Lines 48-49), each of the one or more time stamps generated responsive to a user input operation (User activates device)(Col 5, Lines 44-49), and a

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device identification code (Col 7, Lines 32-34); a data network (Col 6, Line 64 to Col 7, Line 10); a server terminal coupled to the data network configured to generate a reference time information (Synchronization time)(Col 19, Lines 9-14); and a user terminal coupled to the data network configured to receive the one or more time stamps and the device identification code from the data marker device (Col 7, Lines 28-34), and a reference time information substantially corresponding to a time point when the data marker device establishes connection with the user terminal (Synchronization time)(Col 18, Lines 15-18 and Col 18, Line 56 to Col 19, Line 14). However, Tarboureich fails to disclose the *user terminal* receiving the reference time information from the server terminal. In the system disclosed by Tarboureich, *the server* receives the time stamps from the client and determines the time information corresponding to the time stamps itself.

Nonetheless, Doyle et al. (Doyle, hereafter) teach that the offloading of processing from a server as a means to reduce both the load on the server and congestion in the network near the server is well known. (Doyle, Page 6, Paragraph 1). Since each user of the system disclosed by Tarboureich has an individual sensing unit, the amount of calculation required for the server to determine the time information corresponding to each time stamp for every user would get very large as the number of users grew. With a sufficiently large number of users, the server may have become overloaded and unusable (Doyle, Page 5, Paragraph 1). This would have required very expensive server upgrades to keep up with demand (Doyle, Page 6, Paragraph 4) By performing this calculation for each user on their client, which typically has sufficient

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CPU cycles free to process the calculations, the load on the server would have been drastically reduced, improving the speed and reliability of the system for the users and reducing the cost for the service provider.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to offload the calculation of the time information corresponding to the time stamps from the server to the client of each user since this will drastically reduce the load on the server when large numbers of users are accessing the system. This would have improved the speed and reliability of the system for the users and reduced the server cost for the service provider.

37. Claims 22-26 are rejected for the same reasons cited for claims 3-7, respectively.

38. Claim 27, 28 and 29 are rejected for the same reasons cited for claims 10, 8, and 9, respectively.

39. Claims 30-32 are rejected for the same reasons cited for claims 11-13, respectively.

40. Claim 35 is rejected for the same reasons cited for claims 8 and 9, collectively.

41. Claims 36,37,40, and 41 are rejected for the same reasons cited for claims 12,13,16, and17, respectively.

42. Claims 42 and 43 are rejected for the same reasons cited for claims 19 and 20, respectively.

43. With regard to claim 44, Tarboureich discloses a method, comprising: receiving one or more time stamps (Col 5, Lines 48-49); receiving a data marker device

identification code (Col 7, Liens 32-34); determining a time information corresponding to each of the one or more time stamps (derive activation times) (Col 19, Lines 9-14); and transmitting data including the one or more time stamps, the data marker device identification code, the reference time information, and the time information corresponding to each of the one or more time stamps (Physical parameters are uploaded) (Col 17, Lines 38-48). However, Tarboureich fails to disclose transmitting a request for reference time information and receiving the reference time information based on the transmitting step. In the system disclosed by Tarboureich, *the server* receives the time stamps from the client and determines the time information corresponding to the time stamps itself.

Nonetheless, Doyle et al. (Doyle, hereafter) teach that the offloading of processing from a server as a means to reduce both the load on the server and congestion in the network near the server is well known. (Doyle, Page 6, Paragraph 1). Since each user of the system disclosed by Tarboureich has an individual sensing unit, the amount of calculation required for the server to determine the time information corresponding to each time stamp for every user would get very large as the number of users grew. With a sufficiently large number of users, the server may have become overloaded and unusable (Doyle, Page 5, Paragraph 1). This would have required very expensive server upgrades to keep up with demand (Doyle, Page 6, Paragraph 4) By performing this calculation for each user on their client, which typically has sufficient CPU cycles free to process the calculations, the load on the server would have been

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drastically reduced, improving the speed and reliability of the system for the users and reducing the cost for the service provider.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention as made to offload the calculation of the time information corresponding to the time stamps from the server to the client of each user since this will drastically reduce the load on the server when large numbers of users are accessing the system. This would have improved the speed and reliability of the system for the users and reduced the server cost for the service provider.

44. With regard to claim 45, Tarboureich further discloses including establishing a connection using a data transfer protocol (The Internet uses TCP/IP)(Col 6, Line 64 to Col 7, Line 10).

45. Claims 46,47,and 50 are rejected for the same reasons cited for claims 11,13, and 20, respectively.

46. With regard to claim 48, Tarboureich further discloses erasing the time stamps from the data marker device (Col 18, Lines 19-21).

47. With regard to claim 49, while the system disclosed by Tarboureich in view of Doyle shows substantial features of the claimed invention (discussed above), it fails to specifically disclose powering off the data marker device. However, the data marker device is battery powered (Col 8, Lines 45-47), and it is well known in the art to power off a device as a means to conserve battery usage.

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Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to power off the data marker device since this would conserve battery life of the unit.

Allowable Subject Matter

48. Claims 14,15,33,34,38, and 39 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

49. Claim 33,34,38, and 39 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

50. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

51. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron Strange whose telephone number is 703-305-8878. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 703-305-4792. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ANS 10/1/2004

Bradley Coleman

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